

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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SENATE BILL 707
PROPOSED COMMITTEE SUBSTITUTE S707-PCS95100-RV-28

Short Title: School Violence Prevention Act.

(Public)

Sponsors:

Referred to:

April 20, 2011

A BILL TO BE ENTITLED

AN ACT TO ENACT THE SCHOOL VIOLENCE PREVENTION ACT.

Whereas, the General Assembly of North Carolina finds that a safe and civil environment in school is necessary in order for students to learn and achieve high academic standards; and

Whereas, bullying and harassment, like other disruptive or violent behaviors, is conduct that disrupts both a student's ability to learn and a school's ability to educate its students in a safe environment; and

Whereas, bullying and harassing behaviors create a climate that fosters violence in our schools; and

Whereas, it is essential to enact a law that seeks to protect the health and welfare of North Carolina students and improve the learning environment for North Carolina students; and

Whereas, to do so, State and national data and anecdotal evidence have established the need to identify the most vulnerable targets and potential victims of bullying and harassment; and

Whereas, the sole purpose of this law is to protect all children from bullying and harassment, and no other legislative purpose is intended nor should any other intent be construed from passage of this law; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-288(g) reads as rewritten:

"(g) To Report Certain Acts to Law Enforcement and the Superintendent. – When the principal has personal ~~knowledge~~ knowledge, a reasonable belief, or actual notice from school personnel that an act has occurred on school property involving assault resulting in serious personal injury, sexual assault, sexual offense, rape, kidnapping, indecent liberties with a minor, assault involving the use of a weapon, possession of a firearm in violation of the law, possession of a weapon in violation of the law, or possession of a controlled substance in violation of the law, the principal shall immediately report the act to the appropriate local law enforcement agency. ~~Failure to report to law enforcement under this subsection is a Class 3 misdemeanor.~~

A principal who willfully fails to make a report to law enforcement required by this subsection may be subject to demotion or dismissal pursuant to G.S. 115C-325.



1 Notwithstanding any other provision of law, the State Board of Education shall not require
2 the principal to report to law enforcement acts other than those required to be reported by this
3 subsection.

4 For purposes of this subsection, "school property" shall include any public school building,
5 bus, public school campus, grounds, recreational area, or athletic field, in the charge of the
6 principal.

7 The principal or the principal's designee shall notify the superintendent or the
8 superintendent's designee in writing or by electronic mail regarding any report made to law
9 enforcement under this subsection. This notification shall occur by the end of the workday in
10 which the incident occurred when reasonably possible but not later than the end of the
11 following workday. The superintendent shall provide the information to the local board of
12 education.

13 Nothing in this subsection shall be interpreted to interfere with the due process rights of
14 school employees or the privacy rights of students."

15 **SECTION 2.** Article 37 of Chapter 115C of the General Statutes is amended by
16 adding a new section to read:

17 **"§ 115C-532.1. Probation officer visits at school; limitations.**

18 (a) Except as provided in this section, probation officers are not authorized to visit
19 students during school hours on school property.

20 (b) Probation officers of the Division of Community Corrections, when working as a
21 part of the Division's School Partnership Program, may visit students during school hours on
22 school property with prior authorization by school administrators. For purposes of this section,
23 "authorization" includes requests for assistance from guidance counselors or school resource
24 officers.

25 (c) Each local school administrative unit shall develop protocols for coordinating with
26 probation officers of the Division of Community Corrections in the planning and scheduling of
27 school visits as provided in this section, utilizing existing administrative capacity to manage
28 scheduling. Visits shall be conducted in a private area designated for such use and located away
29 from contact with the general student population. The probation officer shall not initiate direct
30 contact with a student while the student is in class or between classes. Initial contact with the
31 student shall be made by a school administrator or other designated school employee, who shall
32 direct the student to a private area to meet with the probation officer."

33 **SECTION 3.** If Senate Bill 648 becomes law, G.S. 115C-390.3, as enacted by that
34 act, is amended by adding a new subsection to read:

35 "(d) No local board of education, nor its members, employees, designees, agents, or
36 volunteers shall be liable in civil damages to any person for acting or failing to act to stop or
37 intervene in an altercation between students unless that act or omission amounts to gross
38 negligence, wanton conduct, or intentional wrongdoing. No school employee shall be
39 reprimanded or dismissed for acting or failing to act to stop or intervene in an altercation
40 between students."

41 **SECTION 4.** G.S. 115C-366 is amended by adding a new subsection to read:

42 "(i) A student who is convicted under G.S. 14-458.2 of cyber-bullying a school
43 employee shall be transferred to another school within the local school administrative unit. If
44 there is no other appropriate school within the local school administrative unit, the student shall
45 be transferred to a different class or assigned to a teacher who was not involved as a victim of
46 the cyber-bullying."

47 **SECTION 5.** G.S. 15A-301 is amended by adding a new subsection to read:

48 "(b1) Approval by District Attorney. – Notwithstanding any other provision of law, no
49 warrant for arrest, order for arrest, criminal summons, or other criminal process shall be issued
50 by a magistrate against a school employee as defined in G.S. 14-33(c)(6) for an offense that
51 occurred while the school employee was in the process of discharging his or her duties of

1 employment, without the prior written approval of the district attorney. For purposes of this
2 subsection, the term "district attorney" means the person elected to the office of district
3 attorney. This subsection does not apply if the offense is a traffic offense or if the offense
4 occurred in the presence of a sworn law enforcement officer."

5 **SECTION 6.** Article 60 of Chapter 14 of the General Statutes is amended by
6 adding a new section to read:

7 **"§ 14-458.2. Cyber-bullying of school employee by student; penalty.**

8 (a) The following definitions apply in this section:

9 (1) School employee. – The term means any of the following:

10 a. An employee of a local board of education, a charter school
11 authorized under G.S. 115C-238.29D, or a nonpublic school which
12 has filed intent to operate under Part 1 or Part 2 of Article 39 of
13 Chapter 115C of the General Statutes.

14 b. An independent contractor or an employee of an independent
15 contractor of a local board of education, a charter school authorized
16 under G.S. 115C-238.29D, or a nonpublic school which has filed
17 intent to operate under Part 1 or Part 2 of Article 39 of Chapter 115C
18 of the General Statutes, if the independent contractor carries out
19 duties customarily performed by employees of the school.

20 (2) Student. – A person who is enrolled in the school at which the school
21 employee is employed or a person who has been suspended or expelled
22 within the last year from the school at which the school employee is
23 employed.

24 (b) Except as otherwise made unlawful by this Article, it shall be unlawful for any
25 student to use a computer or computer network to do any of the following:

26 (1) With the intent to intimidate or torment a school employee:

27 a. Build a fake profile or Web site;

28 b. Post or encourage others to post on the Internet private, personal, or
29 sexual information pertaining to a school employee;

30 c. Post a real or doctored image of the school employee on the Internet;

31 d. Access, alter, or erase any computer network, computer data,
32 computer program, or computer software, including breaking into a
33 password-protected account or stealing or otherwise accessing
34 passwords; or

35 e. Use a computer system for repeated, continuing, or sustained
36 electronic communications, including electronic mail or other
37 transmissions, to a school employee.

38 (2) Plant any statement, whether true or false, tending to provoke or that actually
39 provokes any third party to stalk or harass a school employee.

40 (3) Copy and disseminate, or cause to be made, an unauthorized copy of any
41 data pertaining to a school employee for the purpose of intimidating or
42 tormenting that school employee (in any form, including, but not limited to,
43 any printed or electronic form of computer data, computer programs, or
44 computer software residing in, communicated by, or produced by a computer
45 or computer network).

46 (4) Sign up a school employee for a pornographic Internet site.

47 (5) Without authorization of the school employee, sign up a school employee for
48 electronic mailing lists or to receive junk electronic messages and instant
49 messages, resulting in intimidation or torment of the school employee.

50 (c) Any student who violates this section is guilty of cyber-bullying a school employee,
51 which offense is punishable as a Class 2 misdemeanor.

1 (d) Whenever any student pleads guilty to or is guilty of an offense under this section,
2 the court may, without entering a judgment of guilt and with the consent of the student, defer
3 further proceedings and place the student on probation upon such reasonable terms and
4 conditions as the court may require. Upon fulfillment of the terms and conditions of the
5 probation provided for in this subsection, the court shall discharge the student and dismiss the
6 proceedings against the student. Discharge and dismissal under this subsection shall be without
7 court adjudication of guilt and shall not be deemed a conviction for purposes of this section or
8 for purposes of disqualifications or disabilities imposed by law upon conviction of a crime.
9 Upon discharge and dismissal pursuant to this subsection, the student may apply for an order to
10 expunge the complete record of the proceedings resulting in the dismissal and discharge,
11 pursuant to the procedures and requirements set forth in G.S. 15A-146."

12 **SECTION 7.** Article 30 of Chapter 14 of the General Statutes is amended by
13 adding a new section to read:

14 **"§ 14-266.4. Intimidation of school employee by school administrator to prevent**
15 **employee from reporting assault by student on employee; failure to report**
16 **assault on school employee.**

17 (a) If a person who is the supervisor of a school employee shall by threats, menaces, or
18 in any other manner intimidate or attempt to intimidate the school employee from reporting an
19 assault under G.S. 14-33 to a law enforcement officer or law enforcement agency, the person is
20 guilty of a Class 2 misdemeanor.

21 (b) If a person who is the supervisor of a school employee (i) knows the school
22 employee has been the victim of an assault by a student in violation of G.S. 14-33 resulting in
23 bodily injury and (ii) fails to report the assault against the school employee, the person is guilty
24 of a Class 2 misdemeanor."

25 **SECTION 8.** Article 8 of Chapter 14 of the General Statutes is amended by adding
26 a new section to read:

27 **"§ 14-33.3. No civil or criminal liability for good-faith actions of a school employee to end**
28 **a fight between students.**

29 No school employee as defined in G.S. 14-33(c)(6) who in the performance of his or her
30 duties as a school employee takes actions in good faith to end a fight or altercation between
31 students shall incur any civil or criminal liability as the result of the performance of those
32 actions."

33 **SECTION 9.** Sections 5, 6, 7, and 8 of this act become effective December 1,
34 2011, and apply to offenses committed on or after that date. The remainder of this act is
35 effective when it becomes law. Sections 1, 2, 3, and 4 apply beginning with the 2011-2012
36 school year.